

Examination of the Tunbridge Wells  
Borough Local Plan

**Tunbridge Wells Borough Council**  
**Hearing Statement**

**Matter 1 Issue 4 - Other  
Aspects of Legal  
Compliance**

Document Reference: TWLP/004



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# Matter 1 – Legal Compliance

## Issue 4 – Other Aspects of Legal Compliance

### Inspector’s Question 1: [re. Public consultation and SCI]

*Has public consultation been carried out in accordance with the Council’s Statement of Community Involvement?*

#### **TWBC response to Question 1**

1. Yes, public consultation for the Local Plan has been undertaken in accordance with the Council’s adopted Statement of Community Involvement (SCI).
2. The Council’s latest SCI [\[CD 3.55\]](#) was adopted in October 2020. This SCI updates and supersedes a previous SCI adopted in 2016 [\[CD 3.150\]](#). The 2016 SCI was updated in 2020 which included a series of changes, including:
  - i. updates to reflect updates to national policy and guidance;
  - ii. changes in the ways the Council consults in both Development Management and Planning Policy; and
  - iii. to account for any necessary consultation changes required in exceptional circumstances, such as the Covid-19/Coronavirus pandemic.
3. As Local Plan preparation has progressed, the Council broadened its consultation techniques to adapt to changing circumstances, particularly in response to the Covid-19 pandemic, from the early Issues and Options consultation in 2017 through to the submission of the Local Plan in November 2021, with more emphasis on electronic means of consultation in the final stages of the Local Plan process to allow progress of the Local Plan whilst being in line with the Covid-19 restriction in force at the time.
4. The earlier 2017 Local Plan Issues and Options [\[CD 3.6a\]](#) and 2019 Draft Local Plan [\[CD 3.9\]](#) Regulation 18 consultations were carried out in accordance with the previous SCI adopted in 2016 [\[CD 3.150\]](#). The Pre-Submission Regulation 19 consultation was carried out in accordance with the 2020 SCI [\[CD 3.55\]](#). Both SCIs include a table setting out the eight stages of the Local Plan preparation process

(from initial early consultation at the Issues and Options Regulation 18 stage through to adoption of the Local Plan) including what the Council will do at each stage and what this entails in terms of public consultation and community involvement [See Table 1 on pages 5 and 6 of the 2016 SCI [\[CD 3.150\]](#) and Table 1 on pages 7 and 8 of the 2020 SCI [\[CD 3.55\]](#). The Council considers that Local Plan consultation has been carried out in accordance with each stage up to Stage 5 in relation to the two Regulation 18 consultations and in accordance with each stage of the process up to Submission at Stage 6 (the remaining 2 stages being the examination and adoption of the Plan beyond) for the Regulation 19 consultation.

5. Additional forms of consultation under the Duty to Cooperate are also set out under Section 2 of the SCI [\[CD 3.55\]](#), pages 10 to 12]. Continuous, on-going engagement has taken place under the Duty to Cooperate (DtC) between the Council, neighbouring authorities, and other statutory and non-statutory bodies throughout the Local Plan preparation process, including the production of relevant Statements of Common Ground. Further details on this can be found within the Council's Duty to Co-operate Statement [\[CD 132a, CD132c \(i\), CD 132c \(ii\), CD 132c \(iii\), CD 132c \(iv\) and CD 132c \(v\)\]](#). In addition, a Strategic Sites Working Group (involving a wide range interested parties) was also formed as part of the DtC, for the strategic development proposed at Paddock Wood and land at east Capel (proposed strategic site allocation AL/STRSS1) and for the new garden settlement at Tudeley Village (proposed strategic site allocation AL/STRSS3). Full details of engagement and consultation under the DtC are set out in the Council's Duty to Cooperate Statement [\[CD 132a, CD132c \(i\), CD 132c \(ii\), CD 132c \(iii\), CD 132c \(iv\) and CD 132c \(v\)\]](#).
6. Section 3 of the 2020 SCI [\[CD 3.55\]](#) pages 13 to 17] sets out the consultation techniques used in the preparation of planning policy documents, including those to be employed in exceptional circumstances such as the Covid-19 pandemic. The Council's respective Consultation Statements for each stage of the Local Plan preparation process explain how such techniques have been applied and broadened to adapt to changing circumstances from the early Issues and Options consultation in 2017 through to the submission of the Local Plan in November 2021. These Consultation Statements (CS) are included in the list of Core Documents [CDs [CD 3.8a](#) (pages 6 to 11), [CD 3.8b](#) (pages 3 to 5), [CD 3.69](#) (pages 5 to 14), [CD 134a](#) (pages 3 to 6)]. Further details of how the Council engaged at each stage in the Local

Plan preparation process can be found under the Council's response to question 2 of this Hearing Statement below.

7. In summary, it is considered that the Council has carried out public consultation in accordance with the adopted SCI and has appropriately adapted its consultation techniques accordingly throughout the Local Plan preparation process to deal with changes in circumstance as a result of the Covid 19 pandemic.

## Inspector's Question 2: [re. Availability of documents]

***Were adequate opportunities made available for participants to access and make comments on the Local Plan, and other relevant documents, in different locations and different formats – i.e. electronically and in person?***

### **TWBC response to Question 2**

8. Yes, the Council considers that adequate opportunities were made available for participants to access and make comments on the Local Plan documents, including the Sustainability Appraisal and Habitats Regulation Assessment and all other relevant supporting evidence base documents, at all stages of the Local Plan preparation process. These were provided in different locations and different formats, both electronically and in person.

#### **Presentation and access to information**

9. As referred to under Question 1 above, the Council broadened its consultation techniques to adapt to changing circumstances, particularly in response to the Covid-19 pandemic, from the early Issues and Options consultation in 2017 through to the more formal stages of consultation.
10. In accordance with Regulations 18 and 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), the Council's SCI 2016 [[CD 3.150](#)], Council's SCI 2020 [[CD 3.55](#)], and as set out in the relevant Consultation Statements (CS) for each stage, **all** the Local Plan consultation stages – the Issues and Options Regulation 18 [see CS at [CD 3.8b](#), pages 3 to 5], Draft Local Plan Regulation 18 [see CS at [CD 3.8a](#), pages 6 to 11 and [CD 3.69](#) pages 5 to 14] and the Pre-Submission Local Plan Regulation 19 [see CS at [CD 3.69](#), pages 17 to 19 and CS at [CD 134a](#), pages 3 to 6], used the following consultation methods/techniques for access to the Local Plan documents and information:
- i. Letters/emails sent to everyone registered on the Local Plan database, including the statutory consultees;
  - ii. Posters displayed in public places across the borough, (including the distribution of posters to parish and town councils to post accordingly in their areas);

- iii. Statutory notices were placed in several local newspapers and the Council's own magazine 'Local' which is sent to every residence in the borough;
  - iv. Meetings with targeted groups (parish and town councils, Royal Tunbridge Wells Town Forum and borough councillors);
  - v. A dedicated new Local Plan webpage including links to relevant documents, evidence base; and use of social media, such as the Council's Facebook account to advertise the consultations and invite comments.
11. It should be noted that, in addition to those already set out above in paragraph 10, for the Issues and Options Consultation (held between Tuesday 2 May to Monday 2 June 2017) and for the Draft Local Plan (held between 20 September to 15 November 2019) key additional specific forms of public consultation included manned consultation exhibition events held at various venues across the borough; the production of a summary leaflet setting out the proposed development strategy, place shaping policies and development management policies as well as setting out details of the Local Plan Regulation 18 consultation and, for those without access to a computer, hard copies of the Local Plan consultation documents were made available for viewing at The Tunbridge Wells Gateway, Grosvenor Road, Royal Tunbridge Wells; all libraries in the Tunbridge Wells borough area and all parish and town councils offices within the borough [further details for the Issues and Options Consultation can be found in [CD 3.8b](#), pages 3 to 5, and the Draft Local Plan Regulation 18 Consultation [CD 3.8a](#), pages 6 to 11 and [CD 3.69](#), pages 5 to 14].
12. With regard to the Pre-Submission Local Plan Regulation 19 consultation (26 March to 4 June 2021) [See [CD 134a](#) pages 3 to 6], given the changing circumstances resulting from the Covid-19 pandemic, the Pre-Submission Local Plan consultation had a more digital emphasis, but still provided a range of consultation techniques as follows:
- i. Eight-week consultation period instead of the statutory six-week period to give participants more time to access documents and respond;
  - ii. For those without access to a computer, hard copies of the consultation documents were made available for viewing at the Council's Gateway on an

- appointment basis, following Covid-19 safety regulations [see [CD 134a](#) paragraph 2.14, page 4 for more detail];
- iii. Two live Facebook question and answer evening events took place on 13 April and 12 May 2021, allowing participants to submit (written) questions and receive a direct response from Council Officers attending the sessions [see [CD 134a](#) paragraph 2.13, page 4 for more detail];
  - iv. A virtual exhibition - As face-to-face exhibitions were not able to take place owing to Covid-19 restrictions, the Council identified new ways to allow exhibitions to go ahead and this was a key change to the consultation procedures set out in the SCI compared to how the Council had previously undertaken formal consultation. The Council therefore included a 'virtual exhibition' which could be accessed throughout the consultation and a short presentation via YouTube on the Council's website, both which were available for the full duration of the consultation period, explaining more about the Local Plan, the scope of the consultation, how to find out more information and how to make representations [see [CD 134a](#) paragraph 2.10, page 4 for relevant links to the exhibition and video];
  - v. The TWBC online weekly newsletter (sent out as email alerts), providing information on services, news, and events across the borough (there were 6,000 local residents on the list at the time), featured the Pre-Submission Local Plan Consultation on a weekly basis throughout the consultation period [see [CD 134a](#) paragraph 2.9, page 4 for more detail].

### **Making representations**

13. For all Local Plan consultation stages – the Issues and Options Regulation 18 [[CD 3.8b](#), page 6], Draft Local Plan Regulation 18 [[CD 3.8a](#), pages 11 and 12 and [CD 3.69](#), pages 14 and 15] and the Pre-Submission Local Plan Regulation 19 [[CD 3.69](#) page 19 and [CD 134a](#), page 20], representations were able to be made in the following ways:
  - i. The consultation document and supporting studies/information were made available for viewing and allowing comments to be made directly online, using the Council's consultation portal;



- ii. Alternatively, a response form (for filling in electronically or printing out) was available for downloading on the Council's website or a paper copy could be requested by phoning the Planning Policy team or picked up at the Council's Gateway Office; and returned by email or by post;
  - iii. It was also possible to make written representations by letter or email.
14. All forms of consultation not only made clear how comments could be made but also provided links to further information relating to Local Plan consultation documents and links to any relevant supporting documents/evidence studies. Contact details for the Planning Policy team were also made available in the consultation documents at all stages, offering help on accessing information and submitting comments if needed.
15. In summary, the Council considers that at all stages of the Local Plan preparation process that adequate opportunities were made available for participants to access and make comments on the Local Plan documents, in different locations and different formats, enabling this to be done both electronically and in person, whilst taking account of and adapting to the special circumstances presented by the Covid-19 pandemic.

## Inspector's Question 3: [re. Regard to representations]

### *Were representations adequately taken into account?*

#### **TWBC response to Question 3**

16. Yes, TWBC consider that representations were adequately taken into account at all stages of the Local Plan preparation process as set out in the relevant Consultation Statements [[CD 3.8a](#), page 14, Appendix 1 (Consideration of responses received to the earlier Issues and Options Regulation 18 consultation), [CD 3.69](#) - Part 2 (Consideration of responses to the Draft Local Plan Regulation 18 consultation), and [CD 134b](#) - Part 2 (Summaries of main issues raised at the Pre-Submission Local Plan Regulation 19 consultation)].
17. In accordance with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), the Consultation Statements for both the Issues and Options [[CD 3.8a](#)] and Draft Local Plan, including any comments received in respect of the accompanying Sustainability Appraisal [[CD 3.69](#)] set out the main issues raised in responses received to the consultation. They also contained the Council's response to the comments made, explaining whether any relevant changes will or will not be made in the preparation of the Local Plan in the next stage of the process including the relevant reasoned justification.
18. Following the Regulation 18 Draft Local Plan [[CD 3.9](#)] consultation, a number of changes were made to the Plan in response to the representations received [as explained in Part 2 of the Consultation Statement at [CD 3.69](#)] and subsequently presented in the Pre-Submission Local Plan [[CD 3.58](#)]. Some examples of changes include:
  - i. More focused identification of the main issues and opportunities affecting the borough in Section 2 [[CD 3.58](#), pages 20 to 28];
  - ii. Amendments to the Vision in Section 3 [[CD 3.58](#), pages 30 and 31] with a broader perspective, underpinned by guiding principles;
  - iii. The refinement and merging, where there was overlap, of some strategic policies under Section 4 [[CD 3.58](#), page 33 to 72] and development management policies under Section 6 [[CD 3.58](#), pages 320 to 475];

- iv. Under the Place Shaping policies in Section 5 [[CD 3.58](#), page 74 to 316], the re-consideration of some proposed site allocations with some sites having been not carried forward and other sites re-considered for inclusion in the next version of the Plan, supported by further evidence gathering, such as the Green Belt Study (Stage 3) [[CD 3.141](#)]; and
  - v. The consideration of additional evidence gathering (such as transport modelling, the Green Belt Study (Stage 3) [[CD 3.39c](#)], the AONB Setting Analysis Report [[CD 3.95a](#) and appendices [b](#), [c](#), [d](#), [e](#) and [f](#)], and the Landscape and Visual Assessment (LVIA) [[CD 3.96a](#) and appendices [b](#), [c](#), [d](#), [e](#), [f](#), [g](#), [h](#) and [i](#)] and the Retail, Commercial, Leisure and Town Centre Uses Study (RCLTCU) [[CD 3.86a](#) (main report) and appendices [b](#), [c](#), [d](#), [e\(i\)](#), [e\(ii\)](#), [e\(iii\)](#), [e\(iv\)](#), [e\(v\)](#), [e\(vi\)](#), [e\(vii\)](#), [e\(viii\)](#), [e\(ix\)](#), [e\(x\)](#), [f](#), [g](#), [h](#), and [i](#)] and inclusion of references to updated guidance and regulations where recommended by key consultees across the Plan.
19. With regard to the responses received to the Pre-Submission Local Plan consultation [[CD 134b](#)], the publication of a 'summary of main issues' is a requirement of regulation 22(c)(v) of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). However, unlike the previous Regulation 18 consultations above, there is no requirement to set out how representations have been taken into account at this stage. Nonetheless, the Council has included in Part 2 of the Consultation Statement [[CD 134b](#)], what it regards as an appropriate level of detail to assist the Inspector in understanding the main issues for each section of the Plan, and brief responses are provided by the Council for further assistance and in line with good practice. This document also includes comments received and the Council's response to them in respect of the accompanying Sustainability Appraisal. Any additional (minor) modifications/changes made are shown as track changes in the Submission Local Plan document [[CD 3.128](#)] and there is a separate schedule of additional (minor) modifications [[CD 3.127](#)].
20. In summary, in TWBCs view representations made to the Plan have been adequately taken into account at all key stages of the Local Plan preparation process as set out in the relevant Consultation Statements [CDs [CD 3.8a](#), [CD 3.69](#) and [CD 134b](#)], and the relevant changes progressively made in each version of the Plan.

## Inspector's Question 4: [re. Local Development Scheme]

*Has the Local Plan been prepared in accordance with the Local Development Scheme ('LDS')?*

### TWBC response to Question 4

#### Introduction

21. Yes. The Tunbridge Wells Local Plan has been prepared in accordance with the Local Development Scheme (LDS).
22. A Local Development Scheme is required under section 15 of the Planning and Compulsory Purchase Act 2004 (as amended) and should specify (among other matters) the Development Plan Documents which, when prepared, will comprise part of the development plan for the area. The LDS should be made available publicly and kept up to date. It is also important to note that local planning authorities should publish their Local Development Scheme on their website.
23. The Tunbridge Wells Borough Council October 2021 LDS [[CD 3.143](#)] sets out details of the planning policy documents that the Council has adopted, is presently preparing and those that it intends to prepare. It sets out the timescales for the remaining stages for the production of the Local Plan, including its Examination and adoption, as well as of other planning documents that the Council expects to prepare over the next three-year timeframe.
24. In addition, the LDS sets out that new Local Plan will replace all policies contained within the now dated Core Strategy Development Plan Document (adopted June 2010), the Site Allocations Local Plan (adopted July 2016), and the saved policies in the Tunbridge Wells Borough Local Plan (adopted March 2006).
25. The LDS also sets out the programme to simultaneously start preparatory work on the Royal Tunbridge Wells Town Centre (RTW TC) Area Plan and other Supplementary Planning Documents (SPDs).

## Consideration

26. In 2017, the 'Regulation 18' consultation on an Issues and Options document was undertaken in order to gauge the views from residents, businesses, consultees and infrastructure providers on how growth should be delivered within the borough over the Plan period, as well as on the currency of adopted policies. The consultation ended in June 2017. The LDS which covered that period of consultation was published in April 2016 [[CD 3.147](#)].
27. A revised LDS was published in April 2018 [[CD 3.148](#)], reflecting the need to give further consideration to a range of growth options, including new settlements. As part of that publication a new timetable for plan production was set out, which included an additional Regulation 18 consultation on a Draft Local Plan.
28. A 'Regulation 18' public consultation on a full Draft Local Plan was undertaken from September to November 2019, as reflected within an updated LDS (September 2019) [[CD 3.149](#)].
29. Prior to the publication of the Regulation 19 consultation on the Pre-Submission Local Plan a further update to the LDS was made and published [(February 2021) [CD 3.57](#)].
30. Prior to the submission of the Local Plan to the Secretary of State for independent examination a further update to the LDS was made and published on 29 October 2021 [[CD 3.143](#)] detailing that the Local Plan would be submitted in November 2021. This milestone was met.
31. All iterations of the LDS produced through the entire production process for the Local Plan were published and made available on the Council's website in line with the provisions set out in the Act. In addition, the LDS was updated accordingly as the timetable changed, to ensure that the timetable for production of the Local Plan is up-to-date.

## Conclusion

32. In conclusion, it is considered that the Local Plan has been prepared in accordance with the Local Development Scheme.

## Inspector's Question 5: [re. Due regard to Equality Act 2010]

*In what way does the Plan seek to ensure that due regard is had to the aims expressed in s149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic?*

### TWBC response to Question 5

#### Introduction

33. Section 149 of the Equality Act 2010 places an equality duty on public sector bodies, including local authorities. Local authorities are required to have due regard to the Public Sector Equality Duty at a formative stage in policy formulation. An equality impact assessment can be used to assist with making the necessary considerations and provides evidence of how a local authority has discharged its duty.
34. Under the Equality Act 2010, the Council must comply with the Public Sector Equality Duty to:
- i. eliminate unlawful discrimination, harassment, and victimisation;
  - ii. advance equality of opportunity between those who share a protected characteristic and those who do not; and
  - iii. foster good relations between people who share a protected characteristic and those who do not.
35. As part of the process of developing the new Local Plan, the Council has produced an Equalities Impact Assessment (EqIA) to support the Plan. The purpose of the EqIA is to assess the potential impact of the policies in the new Local Plan on different groups within Tunbridge Wells borough. An assessment of the new Local Plan policies has been undertaken in relation to the groups with the following protected characteristics (as defined by the Equality Act 2010):
- i. Age
  - ii. Disability
  - iii. Gender reassignment
  - iv. Marriage and civil partnership
  - v. Pregnancy and maternity
  - vi. Race

- vii. Religion or belief
- viii. Sex
- ix. Sexual orientation
- x. Pregnancy and maternity

36. In addition to the protected characteristic groups set out above, it has also been considered appropriate to include 'Income and Deprivation'. This is due to the fact that there are pockets of deprivation within the borough, as identified within the Index of Multiple Deprivation (2015). Given this information, it was considered appropriate to include low-income groups as part of the assessment to determine whether they are unfairly discriminated against in comparison to other communities within Tunbridge Wells borough. Therefore, in the EqlA of the new Local Plan, 'Income and Deprivation' was assessed together with the protected characteristics defined by the Equality Act 2010.

## Consideration

37. EqlAs were undertaken for the Draft Plan, Pre-Submission and Submission versions of the Local Plan [CDs, [CD 3.14](#), [CD 3.70](#) and [CD 3.135](#) respectively]. Section 4 of the Submission Local Plan EqlA summarises the effects of the Local Plan as a whole on the 'protected characteristics' covered under the Equality Act 2010. The Submission Local Plan EqlA [[CD 3.135](#)] relates to the policy wording of the Local Plan at the Submission stage of Local Plan preparation. This EqlA builds on the assessments previously undertaken for the Regulation 18/19 stages and considers any potential risk the policies in the Plan may have upon each of the protected characteristics.
38. It is not the purpose of this response to repeat the EqlA, but to highlight how the Council has demonstrated that it has given due regard to the aims of the Equality Act. The Council has assessed each policy with regard to the protected characteristics as defined in the Act. In doing so, it has set out what the policy seeks to achieve and whether it will have a positive or negative impact on specific protected characteristics or groups.
39. The Submission EqlA [[CD 3.135](#)] also considers the proposed amendments, known as Additional (minor) Modifications. The nature of these changes are not considered

to impact on any of the protected characteristics of the Equality Act 2010, as they are mainly grammatical or changes to provide additional clarity on some of the policies within the Plan. Resultantly, the content of the policies and how they impact upon the protected characteristics remains unchanged, and therefore it is concluded that no negative impacts on the protected characteristics will result from these amendments.

40. The Submission EqIA specifically highlights how the Local Plan has the potential to impact on all protected characteristics as it relates to all people who live in, work in, or visit the borough.
41. A number of the policies in the Local Plan address the needs of those with disabilities, for example, Policy H 6 Housing for Older People and People with Disabilities (which also shows consideration of the 'Age' characteristic), and Strategic Policy STR 2 (Place Shaping and Design) both set out the requirement that all components of new developments are to be "accessible, legible, adaptable and inclusive to everyone", while Policy EN 1 (Sustainable Design) under design aspect 6 – Inclusivity and access for all, further reinforces this issue and ensures that all new development is designed to be accessible to all groups in society.
42. A policy in the Plan which has a positive impact directed particularly at the Race protected characteristic group is Policy H 9 (Gypsies and Travellers). It both identifies capacity to meet identified needs as well as provides a criteria-based policy should additional Gypsy and Traveller sites be required during the plan period.
43. The housing elements of the Local Plan ensure that the development of housing provision across the borough provides for the needs of all. Policy H 3 (Affordable Housing) aims to ensure that this includes appropriate levels of affordable housing across the borough and Policy H 5 (Rural Exception Sites) specifically refers to the provision of affordable housing in the rural areas through the use of rural exception sites.
44. In relation to employment provision, a strong emphasis of the Local Plan is the promotion of economic growth through the release of land for significant employment development, in particular through Policy AL/RTW 17 (Land adjacent to Longfield Road, Royal Tunbridge Wells), which is allocated for approximately 80,000sqm of new employment space. The Plan also seeks to protect local services and facilities



through Policy ED 12 (Retention of local services and facilities) and allocates for new facilities where necessary and appropriate, with the aim of encouraging local services within neighbourhoods, improving access to employment, services and amenities for all.

45. The Council will ensure that the EqlA is updated, if necessary, at the post hearing modifications stage and on the adoption of the Plan.

### **Conclusion**

46. The Council is satisfied that it has had due regard to Section 149 of the Equality Act 2010.

## Inspector's Question 6: [re. Mitigation of, and adaptation to, climate change]

***In what ways does the Plan include policies designed to secure that the development and use of land in the area contributes to the mitigation of, and adaptation to, climate change?***

### **TWBC response to Question 6**

#### **Introduction**

47. The submission Local Plan [[CD 3.128](#)] contains two policy areas that secure the development and use of land which contributes to the mitigation of, and adaptation to, climate change. These policy areas ensure the Local Plan is in line with S19(1A) of the Planning and Compulsory Purchase Act 2004 and are listed as follows:
- i. Local Plan Objectives and Strategic Policy
  - ii. Development Management Policy
48. Each of the above areas are addressed in turn below following an overview of the legal requirement referenced by the question.
49. Reference is also made to the Climate Change PPG (see [Climate Change PPG](#)) which states that “*effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases*” and the location of development is a key component of this. The distribution and design of new development and the potential for incorporating sustainable transport solutions, are particularly important considerations that affect transport emissions. Similarly, paragraph 152 of the NPPF [[CD 1.4](#)] notes that “*The planning system should help to: ... shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience*”, further reflecting the influence planning can have on ensuring places can adapt to the impacts of climate change.

#### **Overview**

50. In line with the statutory duty in the Climate Change Act 2008 (see [Climate Change Act 2008](#)), Section 19(1A) of the Planning and Compulsory Purchase Act 2004 (as amended by the Planning Act 2008 – [see Section 19\(1A\)](#)) states that:

*“Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.”*

51. In order to comply with this, it will be necessary to show that relevant policies are *included* in the Local Plan, that the Local Plan documents should be *taken as a whole* and that they contribute to mitigation and adaptation.
52. In terms of the former legal requirement for *inclusion*, there are two policy areas within the Local Plan that directly address climate change: Strategic Policies and Objectives, notably Policies STR 1 (The Development Strategy) and STR 7 (Climate Change) and Objective 10, and numerous Development Management policies but most notably Policy EN 3 (Climate Change Mitigation and Adaptation).
53. In terms of the latter legal requirement, *as a whole*, there are several supporting documents, elements of the Local Plan and additional policies that have been used to shape the Local Plan. Of these, the most relevant are Strategic Objective 10 and the accompanying Sustainability Appraisal [[CD 3.130a](#)].
54. As well as meeting this statutory duty, the Local Plan supports the local authority's corporate declaration of climate emergency and accompanying target to make the Council's operations carbon neutral by 2030 (see Full Council 17 July 2019, Item FC29/19 [[CD 3.122](#)]). Each of the aspects included in paragraphs 60 and 61 are considered below.

### **Local Plan Objectives and Strategic Policy**

55. The topic of climate change was included as a strategic objective in the Pre-Submission Local Plan as follows:
- “To support the goal to make the borough carbon neutral by 2030, and minimise the impact of climate change on communities, the economy and the environment.”*
56. Including this objective recognises the important role that planning has to play in supporting the borough's wider target to emit net zero emissions and to ensure that consideration of climate change was recognised as a guiding framework for the entire Local Plan.

57. The strategic policies for the Local Plan, set out both the overall development strategy and how this will be implemented with reference to several key themes.
58. In order to respond to the requirements of the PPG (see paragraph 57), the Local Plan sets out a Development Strategy (Policy STR 1) that focuses development within settlements and at locations with a broad range of services and existing infrastructure (see Policy ED 8 Town, Rural Service and Neighbourhood Centres, and Village Settlements Hierarchy in the Settlement, Role and Function Study [[CD 3.133](#)]). Additionally, the development strategy incorporates urban intensification and brownfield development, and strategic growth of well-located settlements that can be planned for in a holistic way and thus achieve high standards of sustainable development and a reduced need to travel.
59. For example, Paddock Wood is particularly advantageous as a strategic development site because it has a railway station and opportunities to improve flood resilience for existing residents. Likewise, creating a new garden settlement at Tudeley creates opportunities to plan for a unique development centred around active and sustainable travel and which encourages a wide range of behavioural change such as enabling people to make personal choices through, for example the creation of green and walkable streets. This is in line with NPPF paragraph 105 which states “*Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes*”.
60. Alongside Policy STR 1 (The Development Strategy) are several complementary key strategic themes, one of which is the topic of climate change (Policy STR 7).
61. The intention of Policy STR 7 (Climate Change) is to explain how the Local Plan should address the climate change emergency by implementing effective spatial planning, proactive local policy and partner engagement to help identify relevant local approaches (see Appendix 1). In line with NPPF paragraph 153 the policy considers both the mitigation and adaptation of climate change and provides a focal point and guidance for all other policies and elements of the Local Plan.

## Development Management Policies

62. Similar to Policy STR 7, Development Management Policy EN 3 (Climate Change Mitigation and Adaptation) addresses the topic of climate change directly by requiring planning applicants to meet targets for carbon reduction and adhere to guidance on adapting to climate change. The prescribed energy reduction target within this policy is combined with a target for renewable energy provision to raise expectations even further, and both targets were guided by a review of legal advice and viability in 2019. These expectations are in line with the requirements of the forthcoming Future Homes/Buildings Standards which will be consulted upon in 2023 whilst an interim uplift in Building Regulations is in place (see paragraph 72 below). Policy EN 3 (Climate Change Mitigation and Adaptation) would be applicable to all planning applications and the adaptation requirements applicable to all relevant development.
63. Considerable effort was made to ensure the policies were both legally compliant and viable (see Energy Policy Viability Report [[CD 3.99](#)] and Energy Topic Paper [[CD 3.107](#)]) and thus, until national policy dictates otherwise, this policy is deemed the most appropriate way of addressing climate change in new development and in line with NPPF paragraph 154, which requires “*new development is planned for in ways that ... can help reduced greenhouse gas emissions such as through its location, orientation and design*” and paragraph 157 which states that “*In determining planning applications, local planning authorities should expect new development to ... take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption*”.
64. It is noted that on 15th December 2021 Government implemented an uplift in standard expectations through publication of new statutory guidance and changes to Building Regulations (see changes to [Building Regulations](#)). There is a six-month period before the new regulations come into effect, on 15th June 2022, to allow industry time to prepare. The Council is considering this and whether an amendment to the policy is appropriate. This will form part of its Hearing Statement to the session on the policy, scheduled for discussion on 26th May 2022 (Matter 12).
65. Further relevant development management policies that will have an effect on reducing carbon emissions or addressing the impacts of climate change are:

- i. Policy EN 9: Biodiversity Net Gain
- ii. Policy EN 10: Protection of Designated Sites and Habitats
- iii. Policy EN 12 Trees, Woodland, Hedges and Development
- iv. Policy EN 13: Ancient Woodland and Veteran Trees
- v. Policy EN 14: Green, Grey and Blue Infrastructure
- vi. Policy EN 20: Agricultural Land
- vii. Policy EN 22: Air Quality
- viii. Policy EN 23: Air Quality Management Areas
- ix. Policy EN 24: Biomass Technology
- x. Policy EN 24 Water Supply, Quality and Conservation
- xi. Policy EN 25 Flood Risk
- xii. Policy EN 26 Sustainable Drainage
- xiii. Policy ED 2: Retention of Existing Employment Sites and Buildings
- xiv. Policy ED 3: Digital Communications and Fibre to the Premises (FTTP)
- xv. Policy ED 12: Retention of Local Services and Facilities
- xvi. Policy TP 2: Transport Design and Accessibility

66. In combination, the above policies will provide natural solutions to climate change, reduce transport-related carbon emissions, reduced embodied carbon emissions from use of new materials and reduced impacts from climate change such as flooding.

67. Policies of particular note include:

- i. EN 24 (Water Supply, Quality and Conservation) which, in combination with the Water Efficiency Background Paper [[CD 3.104](#)], details how the highest technical standard for water conservation will be implemented.
- ii. EN 9 (Biodiversity Net Gain) that sets expectations for biodiversity enhancement in line with the new Environment Act 2021
- iii. EN26 (Sustainable Drainage) to control flood risk and reduce harm to water resources.

68. It is noteworthy that Natural England (a Statutory Environmental Body) raises no objections in relation to the proposed Development Management policies for climate change (see Statement of Common Ground paragraph 2.5, [[CD 3.132c\(v\)](#)]).

69. In refusing permission to appeal to the Court of Appeal in *Bioabundance Community Interest Company Ltd v South Oxfordshire District Council*, Stuart-Smith LJ observed that Section 19(1A) of the Planning and Compulsory Purchase Act 2004 (see [Section 19\(1A\)](#)) does not require the development plan documents to explain how or when

particular targets (e.g. net carbon emissions) will be met. He found that there was no call for the Inspector's report to consider the extent to which the main modifications, including provisions seeking carbon reductions, were outweighed by the inevitable increase in carbon emissions arising from the exceptional increase in housing provision above the standard methodology, and the subsequent effect of this on the legally binding net zero target. The relevant question was whether the development plan documents, when taken as a whole, included policies designed to secure that the development and use of land in the LPA's area contributed to the mitigation of, and adaptation to, climate change (C1/2021/0810/PTA).

## Conclusion

70. In conclusion, it is considered that the policies within the Plan acting in combination have positively embraced the statutory duty and para 153 of the NPPF to "*take a proactive approach to ... climate change ...in line with the objectives and provisions of the Climate Change Act 2008*".

## **Inspector's Question 7: [re. Availability of policies maps]**

***Did the Council make available copies of all the submission policies maps, showing any changes that would result from the adoption of the Local Plan?***

### **TWBC response to Question 7**

#### **Introduction**

71. Tunbridge Wells Borough Council published both electronic and paper versions of their Policies Maps alongside the Pre-Submission Local Plan containing both the Key Diagram and the Inset Maps for the full length of the consultation period. Paper copies were made available in all locations listed in the Consultation Statement [CD [3.134a](#)] as well as ensuring these were also available on the website (see <https://tunbridgewells.gov.uk/planning/planning-policy/local-plan> .
72. While it is noted that there is no guidance set out in the relevant Regulations and/or legislation which sets out how changes to the Policies Map should be presented for public consultation, the Council believes it was clear which geographic areas spatial policies in the Local Plan related to, by reference to relevant maps.

#### **Consideration**

73. Paragraph 1.4 of the Local Plan sets out that all policies will replace the 'saved' policies of the Tunbridge Wells Borough Local Plan 2006, the Tunbridge Wells Borough Core Strategy 2010 [[CD 3.118](#)], and the Site Allocations Local Plan 2016 [[CD 3.119](#)].
74. Therefore, it is clearly set out in the Plan that all policies including the spatial extents of those policies are to be replaced by the new Local Plan upon adoption.
75. In response to the representations received at the Regulation 19 consultation regarding the clarity of some of the maps, including the Key Diagram, particularly in terms of their resolution, updated versions with a clearer resolution have been produced and submitted with the Local Plan for Examination [CD 3.129a-s – see list below giving individual links to maps]:



[3.129a Inset Map Legend](#)  
[3.129b Policies Map](#)  
[3.129c\(i\) Inset Map 1a - Royal Tunbridge Wells \(NW\)](#)  
[3.129c\(ii\) Inset Map 1b - Royal Tunbridge Wells \(NE\)](#)  
[3.129c\(iii\) Inset Map 1c - Royal Tunbridge Wells \(SW\)](#)  
[3.129c\(iv\) Inset Map 1d - Royal Tunbridge Wells \(SE\)](#)  
[3.129c\(v\) Inset Map 2 - Royal Tunbridge Wells Town Centre](#)  
[3.129c\(vi\) Inset Map 3 - Southborough](#)  
[3.129d\(i\) Inset Map 4 - Paddock Wood](#)  
[3.129d\(ii\) Inset Map 5 - Paddock Wood TC](#)  
[3.129d\(iii\) Inset Map 6 - Paddock Wood G and T](#)  
[3.129e\(i\) Inset Map 7 - Five Oak Green](#)  
[3.129e\(ii\) Inset Map 8 - Tudeley Village](#)  
[3.129e\(iii\) Inset Map 9 - Brook Farm](#)  
[3.129f\(i\) Inset Map 10 - Cranbrook](#)  
[3.129f\(ii\) Inset Map 11 - Cranbrook TC](#)  
[3.129f\(iii\) Inset Map 12 - Sissinghurst](#)  
[3.129f\(iv\) Inset Map 13 - Sissinghurst Castle](#)  
[3.129f\(v\) Inset Map 14 - Cranbrook G and T](#)  
[3.129g\(i\) Inset Map 15 - Hawkhurst](#)  
[3.129g\(ii\) Inset Map 16 - Gill's Green](#)  
[3.129h\(i\) Inset Map 17 - Benenden](#)  
[3.129h\(ii\) Inset Map 18 - Benenden Hospital](#)  
[3.129i Inset Map 19 - Bidborough](#)  
[3.129j\(i\) Inset Map 20 - Brenchley](#)  
[3.129j\(ii\) Inset Map 21 - Matfield](#)  
[3.129j\(iii\) Inset Map 22 - Brenchley G and T 1](#)  
[3.129j\(iv\) Inset Map 23 - Brenchley G and T 2](#)  
[3.129k Inset Map 24 - Frittenden](#)  
[3.129l Inset Map 25 - Goudhurst](#)  
[3.129m\(i\) Inset Map 26 - Horsmonden](#)  
[3.129m\(ii\) Inset Map 27 - Horsmonden G and T](#)  
[3.129n Inset Map 28 - Lamberhurst](#)  
[3.129o Inset Map 29 - Pembury](#)  
[3.129p Inset Map 30 - Rusthall](#)  
[3.129q Inset Map 31 - Sandhurst](#)  
[3.129r Inset Map 32 - Speldhurst](#)  
[3.129s Inset Map 33 - Langton Green](#)

76. However, it is nonetheless considered that the Key Diagram in the Pre-Submission Local Plan provided a sufficiently clear diagrammatic indication of the broad locations for development in accordance with the NPPF paragraph 23 [[CD 1.4](#)].
77. In addition, it was noted that a statutory designation - the High Weald Area of Outstanding Natural Beauty (AONB) - was incorrectly omitted from some of the Inset Maps produced for the Pre-Submission Local Plan. However, this cartographical error would not have prejudiced anyone making representations as the Council does not have the power to amend the AONB boundary and its omission on the map would not affect any potential allocations per se. The Submission Local Plan Policies/Inset Maps produced to support the Submission Local Plan have subsequently been amended to include the entire High Weald AONB boundary.
78. The extent of areas covered by policies are evident from respective Local Plan maps. However, it is accepted that the Policies Map relies in part on extant Local Plans (notably for safeguarded road and rail routes which are not changed), the Key Diagram and the detail on plans within the Local Plan. Therefore, it should also be noted that the Council has now also produced an 'interactive' Policies Map to support the Local Plan in light of the forthcoming proposals by central Government to 'digitalise' planning. An 'interactive' Policies Map, in line with the digital agenda, has been prepared to help present a comprehensive policy coverage [[CD 3.153](#)], as well as a detailed schedule showing where existing policies with a spatial expression are being retained, amended or deleted [[CD 3.129u](#)].

## Conclusion

79. The Council published both electronic and paper versions of their Policies Maps alongside the Pre-Submission Local Plan and is satisfied that the spatial extent of policies were clearly set out in the Pre-Submission Local Plan, including both the Policies/Inset Maps in combination with the indicative extents set out on the Key Diagram.